

SCHOONER VENUS.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS TRANSMITTING A COPY OF THE CONCLUSIONS OF LAW AND FACTS IN THE FRENCH SPOILIATION CASES RELATING TO THE VESSEL SCHOONER VENUS, BENJAMIN HUTCHINGS, MASTER.

FEBRUARY 15, 1904.—Referred to the Committee on Claims and ordered to be printed.

COURT OF CLAIMS,
Washington, D. C., February 13, 1904.

SIR: Pursuant to the order of the Court of Claims, I transmit herewith the conclusions of fact and of law filed under the act of January 20, 1885, in the French spoliation claims set out in the annexed findings by the court relating to the vessel schooner *Venus*, Benjamin Hutchings, master.

I am, very respectfully, yours, etc.,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Hon. JOSEPH G. CANNON,
Speaker of the House of Representatives.

[Court of Claims. French spoliations. Act of January 20, 1885; 23 Stat. L., 283. Schooner *Venus*, Benjamin Hutchings, master.]

No. of case.	Claimant.
170.	Charles Francis Adams, administrator of Peter C. Brooks, <i>v.</i> The United States. Wm. P. Dexter, administrator of Samuel Dexter, <i>v.</i> The United States. Frederick O. Prince, administrator of James Prince, <i>v.</i> The United States.
175.	Charles F. Adams, administrator of Peter C. Brooks, <i>v.</i> The United States. Thomas N. Perkins, administrator of John C. Jones, <i>v.</i> The United States.
1396.	James G. Freeman, receiver Boston Marine Insurance Company, <i>v.</i> The United States.
3685.	Charles T. Lovering, administrator of Joseph Taylor, <i>v.</i> The United States. Wm. G. Perry, executor of Nicholas Gilman, <i>v.</i> The United States.
3686.	Charles T. Lovering, administrator of Joseph Taylor, <i>v.</i> The United States. Thomas N. Perkins, administrator of John C. Jones, <i>v.</i> The United States. William G. Perry, executor of Nicholas Gilman, <i>v.</i> The United States.
2405.	Nathan Matthews, jr., administrator of Daniel Sargent, <i>v.</i> The United States.

PRELIMINARY STATEMENT.

This case was tried before the Court of Claims on the 3d day of April, 1902.

The claimants were represented by William T. S. Curtis, Theodore J. Pickett, George S. Boutwell, and Edward Lander, esqs., and the United States, defendants,

by the Attorney-General, through his assistants in the Department of Justice, Charles W. Russell and John W. Trainer, esqs., with whom was Assistant Attorney-General Louis A. Pradt.

CONCLUSIONS OF FACT.

The court, upon the evidence and after hearing the arguments and considering same with the briefs of counsel on each side, determine the facts to be as follows:

I. The schooner *Venus*, Benjamin Hutchings, master, sailed on a commercial voyage, on or about September 12, 1799, bound from Boston to Trinidad. While peacefully pursuing said voyage, she was seized on the high seas on October 8, 1799, by the French privateer *Scrutine* and carried into Pointe a Pitre, Guadeloupe, but the master and crew of the *Venus* were kept in custody after their arrival at Pointe a Pitre and were sent from there in a cartel to the island of St. Christopher prior to the consideration of the case and condemnation of the vessel by the French prize court on the 25th day of October, 1799, and the owners of the vessel and cargo were thereby deprived of all opportunity to appear and defend their rights before such court.

The grounds of said condemnation, as shown by the decree, were the want of a rôle d'équipage in good form and the absence of a charter party or bill of lading.

II. The *Venus* was a duly registered vessel of the United States of 48 $\frac{7}{8}$ tons burden, built at Weymouth, Mass., in 1797, and owned solely by John Rice, a citizen of the United States residing in Boston.

III. The cargo of the *Venus* at the time of capture consisted of brandy, jewelry, and other articles of merchandise, and was owned by said John Rice, the owner of the vessel, and John Cornwell. Abraham Quincy also had an invoice of merchandise on said vessel. Both said John Cornwell and Abraham Quincy were citizens of the United States.

IV. The losses by reason of said capture and condemnation were as follows:

The value of the vessel	\$1,600.00
Value of cargo owned by John Rice and John Cornwell.....	13,660.73
Value of cargo owned by Abraham Quincy.....	1,696.40

Amounting in all to 16,957.13

V. On September 16, 1799, the said Abraham Quincy insured his interest in said cargo in the insurance office of Peter C. Brooks for the sum of \$1,700, which said policy was underwritten by the following parties, citizens of the United States, in the sums set opposite their names, viz:

John C. Jones.....	\$1,000
David Greene.....	700

On September 3, 1799, the said owner, John Rice, caused to be effected a policy of insurance in the insurance office of Peter C. Brooks to the amount of \$3,500 (\$800 being on the vessel and \$2,700 on the cargo), said policy being underwritten by the following parties, citizens of the United States, in the sums set opposite their names, viz:

Tuthill Hubbard.....	\$1,000
Benjamin Homer.....	500
James Prince.....	500
Samuel Dexter.....	500
William Smith.....	1,000

September 24, 1799, Samuel Summer insured an invoice of merchandise on said vessel in the office of the Boston Marine Insurance Company in the sum of \$600.

Said Malbone & Dowe insured an interest in said cargo in the insurance office of Joseph Taylor, of Boston, in the sum of \$250, which said policy was underwritten for the full amount by Nicholas Gilman, a citizen of the United States.

Daniel Sargent, through one Richard Salter, caused a certain policy of insurance to be effected in the office of Joseph Taylor in the sum of \$2,000 on goods on board said vessel, which policy was underwritten by the following parties, citizens of the United States, in the sums set opposite their names, viz:

John C. Jones.....	\$1,000
Daniel Sargent.....	500
Nicholas Gilman.....	500

Thereafter, by reason of the capture, condemnation, and loss as aforesaid, the insurers paid to the insured the various sums so insured or underwritten, causing thereby a resulting loss to them of the full amount so paid.

No evidence has been presented showing the citizenship of the said Samuel Sum-

mer, or Malbone & Dowe, or that Daniel Sargent had goods thereon as claimed, or that he was the owner thereof.

VI. April 4, 1808, Tuthill Hubbard, in consideration of the sum of \$60,000 to him paid by Peter C. Brooks and the assumption by the said Brooks of all liabilities and disadvantages arising from his underwriting in said Brooks's office, assigned to the said Brooks all his right, title, and interest in and to all the insurance done by him as an underwriter in the office of said Brooks.

On the 23d day of July, 1805, Benjamin Homer, in consideration of \$5,000 to him paid by Peter C. Brooks, and the assumption by the said Brooks of any and all liabilities and disadvantages arising from his underwriting in said Brooks's office, assigned to the said Brooks all his right, title, and interest in and to all the insurance done by him as an underwriter in the office of the said Brooks.

On the 16th day of December, 1801, William Smith, in consideration of \$3,715.50 to him paid by Peter C. Brooks, and the assumption by the said Brooks of any and all liabilities and disadvantages arising from his underwriting in the office of the said Brooks, assigned to the said Brooks all his right, title, and interest in and to all the insurance done by him as an underwriter in the office of said Brooks.

On the 23d day of December, 1801, David Greene, in consideration of \$6,000 to him paid by Peter C. Brooks and the assumption by the said Brooks of any and all liabilities and disadvantages arising from his underwriting in the office of the said Brooks, assigned to the said Brooks all his right, title, and interest in and to all the insurance done by him as an underwriter in the office of said Brooks.

VII. The claimants herein have produced letters of administration upon the estates of the parties for whom they appear, and have otherwise proved to the satisfaction of the court that the persons for whose estates they have filed claims are in fact the same persons who suffered loss by the seizure and condemnation of the *Venus*, as set forth in the preceding findings.

Said claims were not embraced in the convention between the United States and the Republic of France concluded on the 30th of April, 1803. They were not claims growing out of the acts of France allowed and paid in whole or in part under the provisions of the treaty between the United States and Spain concluded on the 22d of February, 1819, and were not allowed in whole or in part under the provisions of the treaty between the United States and France of the 4th of July, 1831.

The claimants, in their representative capacity, are the owners of said claims, which have never been assigned except as aforesaid.

CONCLUSIONS OF LAW.

The court decides as conclusions of law that said seizure and condemnation were illegal, and the owners and insurers had valid claims of indemnity therefor upon the French Government prior to the ratification of the convention between the United States and the French Republic, concluded on the 30th day of September, 1800; that said claims were relinquished to France by the Government of the United States by said treaty in part consideration of the relinquishment of certain national claims of France against the United States, and that the claimants are entitled to the following sums from the United States:

Charles Francis Adams, administrator of Peter C. Brooks, three thousand two hundred dollars.....	\$3,200
Frederick O. Prince, administrator of James Prince, five hundred dollars ...	500
Wm. P. Dexter, administrator of Samuel Dexter, five hundred dollars	500
Thomas N. Perkins, administrator of John C. Jones, one thousand dollars ..	1,000

Total amount recoverable, five thousand two hundred dollars 5,200

James G. Freeman, receiver of the Boston Marine Insurance Company, has proved no valid claim.

Nathan Matthews, jr., administrator of Daniel Sargent, has proved no valid claim.

Charles T. Lovering, administrator of Joseph Taylor, has proved no valid claim.

BY THE COURT.

Filed April 14, 1902.

A true copy.

Test this 13th day of February, 1904.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

